



0000159279

BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP  
Chairman  
GARY PIERCE  
Commissioner  
BRENDA BURNS  
Commissioner  
BOB BURNS  
Commissioner  
SUSAN BITTER SMITH  
Commissioner

Arizona Corporation Commission  
**DOCKETED**

NOV 13 2014

DOCKETED BY	nr
-------------	----

IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY RELATING TO ITS 2015  
DEMAND SIDE IMPLEMENTATION  
PLAN - REQUEST FOR RULING ON  
FREEPORT-MCMORAN COPPER &  
GOLD, INC.'S REQUEST FOR  
EXEMPTION FROM A.A.C. R14-2-2401, ET.  
SEQ. (ENERGY EFFICIENCY STANDARD))

DOCKET NO. E-01345A-14-0261

DECISION NO. 74813

ORDER

Open Meeting  
November 5, 2014  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Arizona Public Service Company ("APS") is certificated to provide electric service as a public service corporation in the State of Arizona.

INTRODUCTION

2. On March 17, 2014, Freeport-McMoRan Copper & Gold, Inc. ("Freeport") filed a request with the Arizona Corporation Commission ("Commission") seeking an exemption from Arizona Administrative Code ("A.A.C.") R14-2-2401 through R14-2-2419 ("Energy Efficiency Rules

...

...

...

..

with respect to the Arizona Public Service Company ("APS") Demand-side Management ("DSM") Plans beginning with the DSM Plan filed in 2015.<sup>1</sup>

3. On July 8, 2014, APS filed a request for ruling on Freeport's request for exemption from the Energy Efficiency Rules related to its 2015 DSM Implementation Plan.

4. On July 10, 2014, in Docket No. E-01345A-13-0109, Freeport filed a notice of correspondence that responded to inquiries Staff had related to Freeport's request for exemption.<sup>2</sup>

5. On September 9 and 10, 2014, at Staff's request, Freeport re-filed its request for exemption and notice of correspondence, respectively, in the instant docket.

### **THE FREEPORT REQUEST FOR EXEMPTION**

6. Freeport states that it "...requests an exemption because its special circumstances as an exceptionally large consumer of electric power makes it more efficient for the Company to pursue energy efficiency on its own behalf rather than as a participant or funder of utility energy efficiency programs." According to Freeport, it has historically budgeted approximately \$10 million annually on energy-related technology that "do not fit within the confines of conventional energy efficiency programs."

7. Freeport indicates that its \$10 million budget is used to find new methods of producing copper in the mining process more efficiently and is not budgeted by mining locations. However, the Bagdad mine "...benefits from the efficiencies developed in the mining process..." Freeport has several mine locations in APS's service territory, but the Bagdad mine is the only operating mine in APS's service territory.<sup>3</sup>

8. Freeport states that, as a commodity producer, it does not set the price of the copper its mines produce; the market sets the sale price, and Freeport can only control the cost of production. A challenge for Freeport is to find the most efficient production methods that will allow Freeport to

---

<sup>1</sup> Freeport originally filed its request for exemption in Docket No. E-01345A-13-0109 which was initially opened for APS's 2014 DSM Plan. However, Decision No. 74406 ordered that the 2013 DSM Plan apply for 2014, effectively rendering Docket No. E-01345A-13-0109 and Decision No. 73923 moot. On August 27, 2014, Freeport filed a motion to transfer its request, filed in Docket No. E-01345A-13-0109, to the instant docket.

<sup>2</sup> Freeport has also filed a request for exemption in Tucson Electric Power Company's 2014 EE Plan (Docket No. E-01933A-13-0183).

<sup>3</sup> The additional mine locations throughout APS's service territory including: Globe, Miami, Jerome, Bisbee, Douglas, Ajo, and Parker.

1 meet the demand for products in a cost-effective manner while minimizing negative impacts. Because  
2 energy is the second largest variable cost, Freeport states that it is imperative to manage its electricity  
3 costs in order to stay competitive in the marketplace.

4 9. Freeport operates a Technology Center that is tasked with improving mining,  
5 processing, and environmental technologies in order to improve operating efficiencies. According to  
6 Freeport, the DSM programs offered by APS cannot be more cost-effective than the "...extensive  
7 industry-specific conservation activities..." that have been or will be done by Freeport itself to reduce  
8 its power consumption.

9 **THE APS REQUEST FOR RULING**

10 10. In a supplement filed to its 2013 DSM Plan (Docket No. E-01345A-12-0224,  
11 December 13, 2012), APS stated that Freeport qualifies for and has participated in APS's self-direction  
12 option/program which is available to extra-large customers that consume more than 40 million kWh  
13 per year.<sup>4</sup> As a self-direction customer, Freeport can reserve its DSM funds paid to APS for its  
14 exclusive use to help fund qualifying DSM projects at its facilities.

15 11. In addition, APS's supplement included information regarding the impacts of  
16 excluding the Freeport Bagdad mine from the Demand-Side Management Adjustor Charge  
17 ("DSMAC") and excluding the kWh sales from the calculation of the required savings pursuant to the  
18 Energy Efficiency Rules.<sup>5</sup> The supplement indicated that excluding Freeport would reduce not only  
19 the estimated energy efficiency savings goal for 2013, but also the estimated 2013 DSM Budget and  
20 the DSMAC revenue requirement for 2013.

21 12. APS's request for ruling states that although its previous DSM Plan approved by the  
22 Commission in Decision No. 74406 (March 19, 2014), shall "...remain in effect until further order of  
23 the Commission", it may need to file an application to modify the existing Commission-approved  
24 DSM Plan or Budget in order to meet the savings goal required for 2015. Because Freeport is APS's  
25 largest customer, Freeport's request for exemption will most likely impact not only APS's energy  
26 efficiency savings goal, but also the budget needed for APS to meet the savings goal for 2015.

27  
28 <sup>4</sup> See the Self-Direction Provisions approved in Decision No. 71448.

<sup>5</sup> This information was requested to be included as part of APS's 2013 DSM Plan during the discussion of APS's 2012 DSM Plan at the Commission's Open Meeting on March 27, 2012.

13. Therefore, APS is requesting a Commission determination regarding Freeport's request for exemption. Exempting Freeport would relieve it from paying the DSMAC and discontinue its eligibility to participate in any APS DSM program.

**STAFF RECOMMENDATIONS**

14. The APS settlement agreement approved in Decision No. 67744, dated April 7, 2005, states:

"Any customer who can demonstrate an active DSM program and whose single site usage is twenty (20) MW or greater may file a petition with the Commission for exemption from the DSM adjustor. The public shall have twenty (20) days to comment on such petition. In considering any petition pursuant to this paragraph, the Commission may consider the comments received and any other information that is relevant to the customer's request."

15. Pursuant to A.A.C. R14-2-2408(E), all customer classes are required to bear the costs of DSM programs unless the Commission specifically exempts a customer or customer class from paying the costs of DSM programs. Based on the information provided by Freeport, Freeport has demonstrated that it currently has an active DSM program at a 20 MW or larger site.

16. Therefore, pursuant to A.A.C. R14-2-2408(E) and in keeping with Decision No. 67744 APS should exempt the Freeport Bagdad mine from paying into the DSMAC and from participating in its DSM programs.

17. Staff has recommended that APS exclude the Freeport Bagdad mine from paying into the DSMAC and the calculation of APS's energy efficiency savings goal, estimated DSM Budget, and the DSMAC revenue requirement on a going forward basis beginning with APS's 2015 DSM Plan, pursuant to Decision No. 67744 and A.A.C. R14-2-2408(E). In addition, Staff has recommended that if the Freeport Bagdad mine is exempted, that APS no longer pays any incentives to Freeport for any DSM project completed at the Freeport Bagdad mine.

18. Further, Staff has recommended that the exemption apply only to the Freeport Bagdad mine, not on a company-wide basis.

19. Staff has also recommended that Freeport's exemption be limited in that it must continue to report energy efficiency activities and savings on an annual basis, as verified by an independent third party, to APS. This information will be included in APS's annual DSM report filed

1 on March 1 of each year. We will not require the information submitted by Freeport to be verified by  
2 an independent third party.

3 20. Staff has recommended that the other Freeport mine sites located in APS's service  
4 territory that may become operational in the future be required to pay into the DSMAC and be  
5 included in the calculation of APS's energy efficiency savings goal, estimated DSM Budget, and the  
6 DSMAC revenue requirement beginning with the calendar year after each mine site becomes  
7 operational.

8 21. Should Freeport wish to participate in any APS DSM program in the future, Staff has  
9 recommended that APS require Freeport to pay a re-entry fee in the amount equal to what it would  
10 have paid during the period of its exemption, plus reasonable interest

#### 11 CONCLUSIONS OF LAW

12 1. Arizona Public Service Company is an Arizona public service corporation within the  
13 meaning of Article XV, Section 2, of the Arizona Constitution.

14 2. The Commission has jurisdiction over Arizona Public Service Company and the  
15 subject matter of this application.

16 3. The Commission having reviewed the application and Staff's memorandum dated  
17 September 30, 2014, concludes that it is in the public interest to approve the Freeport Copper &  
18 Gold, Inc.'s request for exemption from Arizona Administrative Code R14-2-2401 et. seq., as  
19 discussed herein.

#### 20 ORDER

21 IT IS THEREFORE ORDERED that the Arizona Public Service Company request for ruling  
22 on Freeport-McMoRan Copper and Gold, Inc.'s request for an exemption from Arizona  
23 Administrative Code R14-2-2401, et. seq., be and hereby is approved as discussed herein.

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Freeport-McMoRan Copper and Gold, Inc. Bagdad  
2 mine shall be exempted from paying into Arizona Public Service Company's DSMAC and the  
3 calculation of Arizona Public Service Company's energy efficiency savings goal, estimated DSM  
4 Budget, and the DSMAC revenue requirement on a going forward basis beginning with Arizona  
5 Public Service Company's 2015 DSM Plan, pursuant to Decision No. 67744 and Arizona  
6 Administrative Code R14-2-2408(E).

7 IT IS FURTHER ORDERED that Freeport is exempted from the DSM surcharge, but not  
8 on a company-wide basis. The single location account above 25MW located in Arizona Public Service  
9 Company's territory (the Bagdad mine) shall alone be exempted. Other Freeport locations in the  
10 Arizona Public Service Company's service territory should continue to pay into the DSM surcharge.

11 IT IS FURTHER ORDERED that Freeport-McMoRan Copper and Gold's exemption shall  
12 be limited in that Arizona Public Service Company must continue to obtain and report energy  
13 efficiency activities and savings from Freeport-McMoRan Copper and Gold, Inc. on an annual basis.  
14 Freeport-McMoRan Copper and Gold, Inc. shall provide an annual count of the number and  
15 horsepower of high efficient motors installed at the Bagdad mine, which operate all mining processes,  
16 and data on any energy efficiency measures/projects which are installed at the Bagdad mine, sufficient  
17 to enable the calculation of energy savings. Freeport's exemption shall be contingent upon it  
18 providing this information to Arizona Public Service Company at a time and manner such that it may  
19 be included as part of the annual Arizona Public Service Company DSM report filed by March 1 of  
20 each year.

21 IT IS FURTHER ORDERED that Arizona Public Service Company shall not count  
22 Freeport-McMoRan Copper and Gold's energy savings in determining the Lost Fixed Cost Recovery  
23 amount, nor enable Arizona Public Service Company to qualify for a performance incentive or  
24 otherwise increase Arizona Public Service Company's performance incentive amount.

25 IT IS FURTHER ORDERED that Arizona Public Service Company shall not pay Freeport-  
26 McMoRan Copper and Gold, Inc. Bagdad mine any incentives for any DSM program for the duration  
27 of its exemption.

28 ...

IT IS FURTHER ORDERED that the other Freeport-McMoRan Copper and Gold, Inc. mine sites located in Arizona Public Service Company's service territory that may become operational in the future be required to pay into the DSMAC and be included in the calculation of Arizona Public Service Company's energy efficiency savings goal, estimated DSM Budget, and the DSMAC revenue requirement beginning with the calendar year after each mine site becomes operational.

IT IS FURTHER ORDERED that should Freeport-McMoRan Copper and Gold, Inc. wish to have its Bagdad mine participate in any Arizona Public Service Company DSM program in the future, Arizona Public Service Company shall require Freeport-McMoRan Copper and Gold, Inc. to pay a re-entry fee in the amount equal to what it would have paid during the period of its exemption, along with reasonable interest.

IT IS FURTHER ORDERED that this Order become effective immediately.

**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

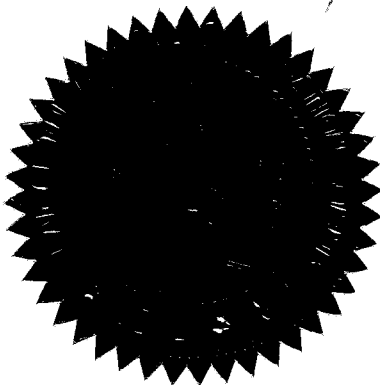
  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 13<sup>th</sup> day of November, 2014.

  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:CLA:sms\WVC

1 SERVICE LIST FOR: Arizona Public Service Company  
2 DOCKET NO.: E-01345A-14-0261

3 Thomas L. Mumaw  
4 Melissa M. Krueger  
5 Pinnacle West Capital Corporation  
400 North 5<sup>th</sup> Street, MS 8695  
Phoenix, Arizona 85004

6 C. Webb Crockett  
7 Patrick J. Black  
8 Fennemore Craig, PC  
2394 East Camelback Road., Suite 600  
Phoenix, Arizona 85016  
9 Attorneys for Freeport-McMoRan Copper & Gold, Inc.  
And Arizonans for Electric Choice and Competition

10 Mr. Steven M. Olea  
11 Director, Utilities Division  
12 Arizona Corporation Commission  
1200 West Washington Street  
13 Phoenix, Arizona 85007

14 Ms. Janice M. Alward  
15 Chief Counsel, Legal Division  
16 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007